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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/003,367 | 11/15/2001 | Tokio Shibazaki | 1217-011967 | 4689 |

7590

07/15/2003

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EXAMINER

GERRITY, STEPHEN FRANCIS

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 07/15/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/003,367

Applicant(s)

SHIBAZAKI ET AL.

Examiner

Stephen F. Gerrity

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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DETAILED ACTION

Response to Substitute Specification

1. Receipt is acknowledged of a substitute specification, filed 28 April 2003, which has been placed of record and entered in the file.

Specification

2. The abstract of the disclosure is objected to because of the use of legal phraseology and idiomatic and grammatical errors. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 2 rejected under 35 U.S.C. 103(a) as being unpatentable over Tagomori (US 4,912,912) in view Meur (US 4,903,456).

The Tagomori reference discloses a control for a banding packing machine including a cam shaft (4) with cams thereon (35, 102, 103), a timing plate (70) and having a slit (71 to 75)

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therein, a detecting means (76) for detecting when a slit reaches a predetermined position; and the rotation of the cam shaft (4) is stopped (see paragraph bridging cols. 5 and 6) which is considered by the examiner to meet the inching mode and operating mode language of claims 1 and 2. The Tagomori reference meets all of applicant's claimed subject matter but discloses a slit instead of a hole. The Meur reference discloses a wrapping machine including a cam shaft (50) which includes cams mounted thereon and which is used to control the operation of the wrapping machine through the use of a timing plate (60) including holes therethrough and a detecting means (62) -- see col. 8, lines 35-45). It would have been obvious to a person having ordinary skill in the art, at the time applicant's invention was made, to have modified the Tagomori controller in a banding packing machine by having replaced the slits (71-75) in the timing plate (70) with holes, as taught by Meur, as each are structural equivalents in the art for the same purposes, and one skilled in the art would have found the substitution to be routine.

Response to Arguments

5. Applicant's arguments, see paper no. 6, page 2, last paragraph, filed 28 April 2003, with respect to objection to the

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specification have been fully considered and are persuasive. The objection to the specification has been withdrawn.

6. Applicant's arguments, see paper no. 6, page 3, first paragraph, filed 28 April 2003, with respect to the rejection of claims 1 and 2 under 35 USC 112, 2nd paragraph have been fully considered and are persuasive. The rejection of claims 1 and 2 under 35 USC 112, 2nd paragraph has been withdrawn.

7. Applicant's arguments, see paper no. 6, pages 3 and 4, filed 28 April 2003, with respect to the rejection of claims 1 and 2 under 35 USC 103(a) have been fully considered but they are not persuasive.

Applicant has argued that in

"the present invention, an inching mode is claimed which stops the rotation of the timing plate at every hole formed in the timing plate. These holes correspond to every individual process (or number) in the band packing system. When the rotation of the timing plate is stopped, the timing shaft of each of the presser members, or the location of the support block, are manually adjusted. The inching mode is utilized only when adjustment is required."

Further, applicant argues that the Tagomori reference has a temporary stop for providing the time necessary to perform a specific operational process. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., stops the rotation of the timing plate

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at every hole formed in the timing plate; these holes correspond to every individual process (or number) in the band packing system; and when the rotation of the timing plate is stopped, the timing shaft of each of the presser members, or the location of the support block, are manually adjusted) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

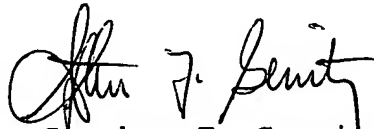
8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Stephen Gerrity**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Rinaldi Rada**, may be contacted. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Tech. Center 3700** receptionist.


Stephen F. Gerrity
Primary Examiner
Art Unit 3721

Examiner's Telephone Number: (703) 308-1279

Examiner's Regular Schedule: **Mon-Fri 5:30-2:00**

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14-Jul-03